

UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF NEW YORK

Douglas C Palmer
Clerk of Court

Brenna Mahoney
Chief Deputy

Michael J. Kramer
Chief Deputy



Theodore Roosevelt Federal Courthouse
Emanuel Celler Federal Courthouse

225 Cadman Plaza East
Brooklyn, NY 11201
(718) 613-2270

Alfonse D'Amato Federal Courthouse

100 Federal Plaza
Central Islip, NY 11722
(718) 613-2270

December 3, 2021

BY ECF AND OVERNIGHT MAIL

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McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

Abraham and Edith Leser
1481 47th Street
Brooklyn, NY 11219

In re: *Capital One N.A. v. Leser et al*, 10-cv-00393 (ARR)

Dear Mr. Lubertazzi, Mr. Leser, and Ms. Leser,

I have been contacted by Judge Ross who presided over the above-mentioned case.

Judge Ross informed me that it has been brought to her attention that while she presided over the case she owned stock in Capital One. Her ownership of stock neither affected nor impacted her decisions in this case. However, her stock ownership would have required recusal under the Code of Conduct for United States Judges, and thus, Judge Ross directed that I notify the parties of the conflict.

Advisory Opinion 71, from the Judicial Conference Codes of Conduct Committee, provides the following guidance for addressing disqualification that is not discovered until after a judge has participated in a case:

[A] judge should disclose to the parties the facts bearing on disqualification as soon as those facts are learned, even though that may occur after entry of the decision. The parties may then determine what relief they may seek and a court (without the disqualified judge) will decide the legal consequence, if any, arising from the participation of the disqualified judge in the entered decision.

Although Advisory Opinion 71 contemplated disqualification after a Court of Appeals oral argument, the Committee explained “[s]imilar considerations would apply when a judgment was entered in a district court by a judge and it is later learned that the judge was disqualified.”

With Advisory Opinion 71 in mind, you are invited to respond to Judge Ross’s disclosure of a conflict in this case. Should you wish to respond, please submit your response on or before December 20, 2021. Any response will be considered by another judge of this court without the participation of Judge Ross.

Sincerely,

/s/

Douglas C. Palmer

Clerk of Court

Cc: Catherine O’Hagan Wolfe, Clerk of Court

United States Court of Appeals

Second Circuit

(by overnight mail)